

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Michael Fanjoy

v.

Civil No. 10-cv-00128-JL

Howard Lee Schiff, PC

**ORDER AFTER PRELIMINARY  
PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held via telephone on **July 30, 2010**.

The Discovery Plan (document no. 16) is approved as submitted, with the following changes:

- Jury trial - **August, 2011**

The defendant's motion to dismiss (document no. 7) is DENIED as it improperly seeks to supplement the record in the vein of a motion for summary judgment. Further, the plaintiff has moved to amend its complaint (document no. 9) in order to cure the deficiencies raised in the motion to dismiss. The motion to amend is GRANTED without prejudice to the defendant's right to move for dismissal under Rule 12.

**Summary Judgment.** The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding

evidentiary support for factual assertions, and specification and delineation of material issues of disputed fact, will be required.

**Discovery disputes.** Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted. If the Magistrate Judge is recused, alternate arrangements will be made.

**SO ORDERED.**



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Joseph N. Laplante  
United States District Judge

Dated: July 30, 2010

cc: Angela K. Troccoli, Esq.  
Karen J. Wisniowski, Esq.